

Article - Environment

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§16–205.

(a) The Board may require as a condition to issuance of a wetlands license that compensation be made to the State, of a kind and in an amount deemed appropriate by the Board.

(b) (1) The Board shall establish a compensation rate for cables, pipelines, or similar structures in accordance with this subsection.

(2) The minimum compensation rate:

(i) Is \$2.50 per linear foot per year for cables, pipelines, or similar structures;

(ii) Applies to each individual cable, pipeline, or similar structure; and

(iii) Applies to all new and existing authorizations beginning July 2, 2012.

(3) The Board may:

(i) Increase the compensation rate as considered appropriate; and

(ii) Adjust the compensation rate to reflect changes in the Consumer Price Index as published by the Bureau of Labor Statistics of the U.S. Department of Labor or by an appropriate method selected by the Board.

(c) (1) The Board shall establish an annual compensation rate for nonwater–dependent projects authorized under § 16–104(b)(2) of this title.

(2) The Board shall assess an annual compensation rate for a nonwater–dependent project that is:

(i) Based on the most recent data provided by the State Department of Assessments and Taxation in the assessment record for the real property to which the nonwater–dependent project is attached; and

(ii) Computed by:

1. Multiplying the total square footage of the nonwater-dependent project by a fraction, the denominator of which is the total square footage of the land area of the real property to which the nonwater-dependent project is attached, and the numerator of which is the assessed land value of the real property to which the nonwater-dependent project is attached; and

2. Multiplying the rate calculated under item 1 of this item by a percentage considered appropriate by the Board not to exceed 100%.

(3) In determining the appropriate percentage under paragraph (2)(ii)2 of this subsection, the Board may consider:

(i) The extent to which the nonwater-dependent project is used on a seasonal or year-round basis;

(ii) The extent of the economic impact of the nonwater-dependent project on the local jurisdiction;

(iii) The nature and extent of the environmental impact of the nonwater-dependent project;

(iv) The extent to which the nonwater-dependent project and, if applicable, its roof or covering, are permanent or temporary;

(v) Any history of violation of this title by the licensee;

(vi) Any real property lease rates for the area for a commercial activity similar to the licensee's or any real property appraisals obtained by the licensee; and

(vii) Any other factor that the Board considers relevant.

(4) The Board may periodically recalculate the annual compensation rate to reflect:

(i) Any change to the data provided by the State Department of Assessments and Taxation under paragraph (2)(i) of this subsection; or

(ii) A change in any factor the Board considers under paragraph (3) of this subsection.

(d) Monetary compensation received by the State in conjunction with a wetlands license may not be applied to the State Annuity Bond Fund Account.

(e) (1) There is created a special fund, known as the Tidal Wetlands Compensation Fund.

(2) The following money shall be deposited in the Tidal Wetlands Compensation Fund:

(i) Any monetary payment by a licensee in lieu of creating, restoring, or enhancing tidal wetlands that is required by the Department or the Board as a condition of a permit or license;

(ii) Any penalty imposed by a court in accordance with this title; and

(iii) Any penalty imposed by the Department under this title.

(f) Funds in the Tidal Wetlands Compensation Fund may be appropriated only for the creation, restoration, or enhancement of tidal wetlands, including:

(1) Acquisition of land or easements;

(2) Maintenance of mitigation sites;

(3) Purchase of credits in mitigation banks;

(4) Management of invasive or nuisance species identified by the Department;

(5) Cost sharing assistance to landowners in the management and control of phragmites under Title 8, Subtitle 21 of the Natural Resources Article; and

(6) Contractual services necessary to accomplish the intent of this subsection.

(g) Funds credited and any interest accrued to the Fund:

(1) Shall remain available until expended; and

(2) May not revert to the General Fund under any other provision of law.

(h) All monetary compensation paid to the State in conjunction with a wetlands license other than that specified under subsection (e)(2) of this section shall

be deposited in the Wetlands and Waterways Program Fund established under § 5–203.1 of this article.

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